



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR-7014-N-12]

60-Day Notice of Proposed Information Collection: Pay for Success Pilot Application Requirements

AGENCY: Office of the Assistant Secretary for Housing- Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: Comments Due Date: **[Insert date 60 days after date of publication in the Federal Register.]**

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street, SW, Room 4176, Washington, DC 20410-5000; telephone 202-402-3400 (this is not a toll-free number) or email at Colette.Pollard@hud.gov for a copy of the proposed forms or other available information. Persons with hearing or speech impairments

may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

FOR FURTHER INFORMATION CONTACT: Josh Geyer, Office of Environment and Energy, Department of Housing and Urban Development, 451 7th Street, SW, Washington, DC 20410; e-mail Joshua.m.geyer@hud.gov or telephone (415) 489-6418. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877-8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Pay for Success Pilot Application Requirements.

OMB Approval Number: 2502-0613.

OMB Expiration Date: 1/31/2020.

Type of Request: This is a revision of a currently approved collection.

***Form Numbers: HUD-2530, SF 424 family of forms, HUD-2880, HUD-424-CBW, HUD-9250, Certification of Owner Eligibility, Cooperative Agreement, Site-Specific Environmental Review (Part 1 of 2), and Office of Multifamily Housing Pay for Success Program Narrative Template. [OGC-FH/ Concurrence: When an SF is part of a HUD information collection request, it must be noted in the documentation because use of the SF will place a burden upon the respondents. Failure to include a required form in a new PRA package with the attended burden hours is legally insufficient. Recipients of federal financial assistance are required to submit assurances, including assurances that they will comply with federal civil rights

requirements, as a condition of receiving an award of federal financial assistance. See e.g., 24 C.F.R. §§ 1.5, 3.115, and 8.50. When OMB promulgated its government-wide grant making regulation, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 C.F.R. Part 200, it incorporated the assurances that were once contained in OMB Circular A-102 and the assurances contained in HUD's regulations into a standard form for agencies to use when obtaining such assurances. OMB's regulation specifically states that "the Federal awarding agency must manage and administer the Federal award in a manner so as to ensure that Federal funding is expended and associated programs are implemented in full accordance with U.S. statutory and public policy requirements, including, but not limited to, those protecting public welfare, the environment, and prohibiting discrimination. The Federal awarding agency must communicate to the non-federal entity all relevant public policy requirements, including those in general appropriations provisions, and incorporate them either directly or in the terms and conditions of the Federal award." 2 C.F.R. § 200.200. Based on this requirement, HUD must ensure that that recipients are put on notice that the entire SF-424 Family, available at: <https://www.grants.gov/web/grants/forms/sf-424-individual-family.html>, including the SF-424B, and the SF-424D, as applicable, must be submitted. To ensure the PRA package is accurate, the reference to the SF-424 Family should be added to the PRA 60-day notice and supplemental information.]***

- Form HUD-2530, Previous Participation Certification, is completed by the Intermediary. The Intermediary submits the form to HUD via grants.gov as part of the application package for the PFS pilot. The type of information collected includes the Intermediary's (principals) Name, Address, Social Number/IRS Employee Number, Signature, etc. The

form is required to provide HUD with a certified report of all previous participation in HUD multifamily housing projects by those parties making application and is used by HUD to determine eligibility to participate in Multifamily programs.

- ***SF-424 family of forms (SF-424A-D, as applicable), Application for Federal Assistance and Assurances, is completed by the Intermediary. The Intermediary submits this family of forms to HUD via grants.gov as part of the application for the PFS pilot. The type of information collected includes the Intermediary's Name, EIN/TIN, Address, Email address, etc. This family of forms is required for use as a cover sheet for submission of preapplications and applications and related information under discretionary programs. Applicants are required to submit this family of forms to HUD as part of the application package for the PFS pilot. [OGC-FH/ Concurrence: As explained more fully in our comment above, all applicable forms in the SF-424 family are required to be submitted, including appropriate assurances. We have edited this paragraph to reflect this requirement.]***
- Form HUD-2880, Applicant/Recipient Disclosure/Update Report, is completed by the Intermediary. The Intermediary submits the form to HUD via the grants.gov as part of the application package for the PFS pilot. The type of information collected includes the Intermediary's Name, address, phone number, social security number and EIN, etc. The Intermediary is required to submit this form in order to provide accountability and integrity in the provision of assistance that is administered by HUD.

- Form HUD 424-CBW (excel spreadsheet), Detailed Budget Worksheet, is completed by the Intermediary. The Intermediary submits this form to HUD via email or US mail for approval. The type of information collected includes a detailed description of budget as it pertains to each participating property. The Intermediary submits this form to HUD in program phases for completion of the retrofits in all participating properties in the PFS program.
- Form HUD-9250, Funds Authorization, is completed by the Owner. The Owner submits this form by email or by US mail to HUD for approval. The type of information collected includes Owner's name, address, mortgagee, etc. Owners are required to submit this form to HUD to request withdrawal from the Reserve for Replacements or Residual Receipts Funds.
- Certification of Owner Eligibility, Owner must complete this form to be eligible to participate in the Pay for Success pilot. Owner submits certification to HUD for approval via email or by US mail. The type of information collected includes Owner's name, iREMS number, address, signature, etc. Owners must provide a certification to HUD that they and the property meet HUD eligibility requirements in order to be able to participate in the Pilot.
- Cooperative Agreement is administered by HUD's Office of Multifamily Housing Programs, which will have oversight of the Intermediaries, ensuring compliance with all included provisions and authorizing payments when and if required conditions are met.

The type of information collected includes Date agreement was entered with Intermediary, total of units HUD awarded intermediary, signature and HUD official. The form is submitted to HUD/Intermediary via email or by US mail.

- Site-Specific Environment Review (Part 1 of 2), this form should be used only to initiate site-specific reviews for individual HUD-assisted properties undertaking energy and water conservation retrofits under the Multifamily Energy and Water Conservation Pay for Success Pilot. Intermediary completes the form and any relevant documents for each site identified to participate in the PFS Pilot and submits it to HUD to upload in the HUD Environmental Review Online System (HEROS).
- Office of Multifamily Housing Pay for Success Program Narrative Template is completed by the Intermediary and is submitted to HUD via grants.gov. The type of information collected includes the Intermediary's name, EIN, organization name, etc. The narrative template is provided to Applicants under the Pay for Success Pilot program and will be evaluated by HUD.

Description of the need for the information and proposed use: Title LXXXI of the Fixing America's Surface Transportation Act (Public Law 114-94) authorizes the Department of Housing and Urban Development (HUD) to establish a demonstration program under which the Secretary may execute budget-neutral, performance-based agreements in fiscal years 2016 through 2019 that result in a reduction in energy or water costs. The legislation authorizes HUD to implement this pilot in up to 20,000 units of multifamily buildings participating in the project-based rental assistance (PBRA) program under section 8 of the United States Housing Act of

1937; supportive housing for the elderly program operating under section 202 of the Housing Act of 1959; and supportive housing for persons with disabilities under section 811(d)(2) of the Cranston-Gonzalez National Affordable Housing Act. The Statute authorizes HUD to execute performance-based agreements in fiscal years 2016 through 2019 covering up to 20,000 units in eligible properties. HUD is responsible for submitting annual program evaluation reports to Congress for the duration of the Pilot.

HUD is authorized under this legislation to establish a competitive process for selecting one or more qualified applicants to serve as Intermediaries who will, per agreements with HUD, be responsible for initiating and managing an energy and water conservation retrofit program at eligible properties. For the purpose of this program, applicants are defined as entities applying to participate. The documents that are the subject of this notice are those used by applicants applying to participate in this program. This information will allow applicants to submit their proposal and for the government to evaluate this information.

- I. ****Application*. The applicants responding to the NOFA will need to submit the before the prescribed deadline all standard forms including Previous Participation Certification (Form 2530), SF-424 family of forms, and Form HUD-2880; responses to the NOFA's rating factors describing the applicant's qualifications and proposed approach to all aspects of program implementation; and an Executive Summary of no more than four pages. [OGC-FH/ Concurrence: As explained more fully in our comment above, all applicable forms in the SF-424 family are required to be

submitted, including appropriate assurances. We have edited this paragraph to reflect this requirement.]****

II. *Project Initiation.* Once selected, Intermediaries will enter into a Cooperative Agreement with HUD for each property they will be retrofitting under the program which will provide for performance-based payments by HUD based on the savings realized by HUD after the retrofit has been completed. Intermediaries will also be required to submit a copy of an executed PFS Contracts with each property owner that will be attached to the Cooperative and serve to identify the specific units being affected by the retrofit. Within 30 days of entering into each Cooperative Agreement, an Intermediary will submit to HUD a Work Plan consisting of a description of all documentary deliverables and due dates related to that Agreement and a proposed approach to periodic consultation with HUD for the purposes of oversight. The Intermediary will also submit a request for approval for the Independent Evaluator that will be validating key information submitted to HUD by the Intermediary over the course of the Cooperative Agreement. Each participating property owner will submit to HUD a Certification of Eligibility and a written agreement to replace equipment installed under the PFS Pilot only with equipment of like or better efficiency.

III. *Retrofit implementation.* Before a retrofit is implemented, the Intermediary will to develop and submit (with support from the property owner) a Site-specific Environmental Review form with the following information: high-level description of the project's scope of work; whether the property lies within a Coastal Barrier Resource unit; whether the property lies within a floodplain and proof of any required

flood insurance policies; whether the project will destroy or modify a wetland; previous uses of the site and other evidence of contamination on or near the site; and whether any historic preservation policies apply to the site or the building(s).

Intermediaries intending to use property-level reserve funds to pay for no more than half of the hard costs associated with the retrofit must submit a Scope of Work for the retrofit and a Reserve Analysis demonstrating that the retrofit will leave the property in as good or better financial shape as it would otherwise have been. The property owner must submit a Funds Authorization Form (HUD-9250) to request HUD's approval to use funds for this purpose.

- IV. *Retrofit completion.* When the retrofit is completed, the Intermediary will submit a Certification of Retrofit Completion with the following information: a list of installed measures with cost information; weather- and occupancy-normalized pre-retrofit consumption baselines for each affected tenant- and owner-paid utility, and all component data used to calculate those baselines, including utility consumption, rates, utility allowances, and climatic and occupancy data, and the calculation methodology used; weather- and occupancy-normalized post-retrofit consumption projections for each affected tenant- and owner-paid utility, and all component data used to calculate those baselines, including utility consumption, rates, utility allowances, and climatic and occupancy data, and the calculation methodology used; recalculated pre-retrofit baseline utility allowances and post-retrofit utility allowances for each unit size/type; recalculated pre-retrofit baseline owner rental subsidy and post-retrofit owner renter for each unit size/type; and post-retrofit per-unit annual savings to HUD relative to pre-retrofit baseline.

- V. *Performance payments.* Intermediaries will submit Invoices for Performance Payments concurrent with each property's annual rent adjustment cycle for the remainder of the period of performance of the Cooperative Agreement pertaining to that property. Invoices will include thorough documentation of all calculations contributing to the calculation of the amount being invoiced (as provided in the work plan) as well as a written certification by the Independent Evaluator that the performance payment has been calculated according to the methodology contained in the Cooperative Agreement; no adverse changes to the qualifications of the Independent Evaluator have occurred since the last submission from the Independent Evaluator; and no conflict of interest or apparent conflict of interest exists with the Intermediary or with respect to any property or Owner which would preclude the Independent Evaluator from performing its obligations in a truly independent manner. In the event of a change in the physical structure of a property during the period of performance which materially impacts utility usage, the Owner and the Intermediary will mutually agree upon an equitable modification of the pre-retrofit baseline for Owner-paid utility and/or of the pre-retrofit baseline of tenant utility allowances to reflect the impact of the change on utility usage and notify HUD of the change. In the event that the Intermediary wishes to assign performance payments to a third party, the Intermediary must submit to HUD a written request for approval.
- VI. *Other program administration requirements.* Beginning with the execution of their first cooperative agreement with HUD, Intermediaries will submit quarterly reports regarding the status of all properties for which work under the PFS Pilot is unfinished, including the work that has been completed, the work that remains the

anticipated projected completion date. If at any point it becomes necessary to replace a partner entity performing one or more core functions program administration functions (project management, capital sources, oversight of SOW development and retrofit implementation, and/or invoicing HUD), the Intermediary must collect and submit evidence from the proposed replacement partner entity similar to the qualifications detailed for the original partner entity in the Intermediary's initial application. As this is pilot program and HUD is responsible for submitting annual program evaluation reports to Congress, Intermediaries may be required to work with a program evaluation team and provide relevant information, possibly including (but not limited to) information pertaining to retrofit implementation, program administration, post-retrofit behavioral interventions, and certain fees. Intermediaries may be asked to clarify or provide additional context for previously submitted information, including additional details on their sources and uses of funds.

Respondents (i.e. affected public): Entities applying to be Intermediaries under this program, selected Intermediaries

Estimated Number of Respondents: 15.

Estimated Number of Annual Responses: 1,000.

Frequency of Response: Varies.

Average Hours per Response: 10.8.

Total Estimated Annual Burden: 4,401.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

- (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (2) The accuracy of the agency's estimate of the burden of the proposed collection of information;
- (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and
- (4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: April 16, 2019.

Vance T. Morris,
Special Assistant to the Assistant Secretary for Housing – Federal Housing Commissioner.

Billing Code: 4210-67

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